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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,725	10/24/2003	Wade J. Chilton	23-0191	2385

40158 7590 04/15/2005

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SUITE 250
SIOUX FALLS, SD 57105

EXAMINER

THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,725

Applicant(s)

CHILTON, WADE J.

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3, 6, 7 and 11-20 is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5 and 8-10 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellison #6,478,113 in view of Boughner #5,423,397. Ellison discloses a ladder system comprised of stiles 22, rungs 24 and stile extensions 30 that are adjustably supported within the lower end of the stiles. Ellison fails to disclose rung engaged lateral support assemblies for the system.

Boughner, as recited in column 4, lines 23-37, teaches the utility of lateral ladder stabilizer support 10 for receipt within hollow rungs 20, 22, comprised of vertical sections 40, 42, that telescope (member 74) and terminate with feet 44, 46, and horizontal sections 32, 34, that are laterally and adjustably supported within the rungs by stop members 62, 64, on one side of the ladder, and pin assembly 56, 58, 60 on the other side. An assembly such as this provides excellent support for a ladder upon a support surface. Therefore, to one of ordinary skill in the art, it would have been obvious, as a matter of engineering design choice, to provide the ladder system of Ellison with lateral supports as taught by Boughner, so as to provide additional support of a ladder upon a support surface, while producing no new and unexpected results. It would have been further obvious to provide additional lateral supports at an opposed end of the ladder,

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this being no more than a duplication of parts, not expected to produce any new and unexpected results.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellison in view of Boughner as applied to claims 1, 2, 4, and 5 above, and further in view of Fleischer #3,724,592. Ellison in view of Boughner fails to disclose multiple ladder section pivotally connected to form a scaffold or the like. Fleischer teaches the utility of a ladder/scaffold assembly 10 comprised of pivotally connected ladder sections, as best seen in Figure 5, having extending leg portions, this arrangement serving to allow a user multiple use configurations for the assembly. Therefore, to one of ordinary skill in the art, it would have been obvious, as a matter of engineering design choice, to provide the ladder system of Ellison in view of Boughner with a scaffold assembly with multiple ladder sections as taught by Fleischer, so as to provide a user thereof multiple use configurations.

Allowable Subject Matter

Claims 3, 6, 7, 11-20 are allowed.

Claims 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The primary reason for the allowance of claim 6 inclusive of claim 11, is the inclusion of a medial outboard rail and brace arm secured to the ladder. For claim 2, it is the inclusion of both the upper and lower later brace arms having a plurality of pin apertures for receiving a pin. For claims 3, 11, and 20 inclusive of claim 11, it is the inclusion of an upper

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ladder extension secured to the upper rails of the ladder. The prior art of record fails to teach or suggest the claimed features absent the applicant's own disclosure.

Response to Arguments

Applicant's arguments filed in the Amendment of 1-10-05 have been fully considered but they are not persuasive. With respect to claim 1, the applicant argues on page 16 of the Amendment that the sole means for lateral adjustment is the locking pin assembly 56, 58, and 60. The applicant should note that the rejection above has been clarified to show that the "adjustably supported" horizontal sections are in fact laterally adjustable with respect to both sides of the ladder. As such, the rejection is deemed proper.

Conclusion

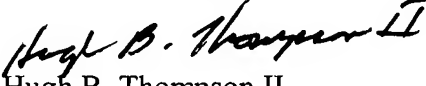
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Hugh B. Thompson II
Primary Examiner
Art Unit 3634

April 12, 2005